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July 18, 1997

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

Re: MM Docket No. 87-268

Dear Mr. Caton

Transmitted herewith, on behalf of Channel 51 of San Diego, Inc., licensee of Television Broadcast Station KUSI-TV, San Diego, CA, are an original and four copies of its Opposition to Petition For Reconsideration (Entravision) of the Sixth Report and Order in the above-referenced matter.

Very truly yours

Stanley S. Neustadt
Stanley S. Neustadt

Enclosures

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JUL 18 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

In the Matter of

Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

MM Docket No. 87-268

OPPOSITION TO PETITION FOR RECONSIDERATION OF SIXTH REPORT AND ORDER

Channel 51 of San Diego, Inc. (KUSI), licensee of Television Broadcast Station KUSI-TV, San Diego, CA, by its attorneys, pursuant to Section 1.429 of the Commission's Rules, respectfully opposes the Petition for Reconsideration filed in the above-captioned matter by Entravision Holdings, LLC ("Entravision") insofar as it urges that the allotment of DTV Channel 18 to Station KUSI-TV at San Diego, CA be changed to any one of six channels between Channel 43 and Channel 65. In support of its opposition, KUSI states:

1. While KUSI respects the desire of Entravision and its right to seek the most suitable DTV channel for its low power TV operations, sight must not be lost of the fact, readily acknowledged by Entravision, that low power stations will remain a secondary service. The gain for Entravision, and indeed, for the public which would result from its retaining Channel 19 at San Diego would be far outweighed by the loss to KUSI which would be necessitated by its shift to a very high DTV channel. In terms of monetary expense alone that cost would be very great.

2. Attached hereto is the Engineering Statement of Bernard R. Segal, the consulting engineer for KUSI, which establishes that each of the channels proposed by Entravision for DTV use by KUSI has potential allotment problems which are at least as serious, if not more so, than the allotment of Channel 18 for KUSI.

3. This highlights a systemic problem which Entravision could not even begin to address. Entravision has proposed different channels for KUSI without any consideration of the effect of its channel proposals on the total allotment of all available channels throughout the entire country. The fact that it could not conceivably predict the effect on the entire allotment plan does not in any way lessen its inadequacy. Very many petitions for reconsideration have been filed. Their effect on the Entravision proposals, and Entravision's effect on them (including other requests concerning LPTV or translator stations) cannot be measured by consideration of the Entravision proposals themselves. *Reasonable consideration of changes in any single allotment requires reconsideration of the entire allotment plan.* Such retooling of the entire allotment plan would delay for a very lengthy period the inauguration of the transition to DTV. That would be a tremendously high price to pay for some presumed protection of a "secondary" service.

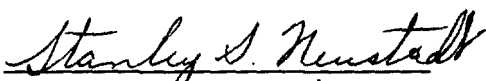
4. Although Entravision may have tried to consider the TV stations *directly* affected by its proposed DTV assignment changes, the process by which *indirect* effects may occur from the various petitions for reconsideration cry out for correction from a procedural point of view. In many cases, there is no procedural protection for adversely affected licensees, since the proceeding is entirely too complex to permit the usual petition for rule making, Notice of Proposed Rule Making, etc., which ordinarily would attend proposed changes in TV channel allotments. This defect can be cured by dismissal or denial in this proceeding of petitions suggesting particular changes in

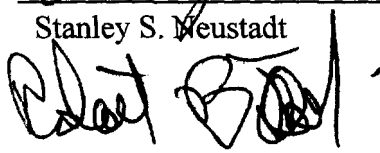
specific channel assignments, with the remedy, for those who perceive themselves to be aggrieved by particular allotments, of permission to file *specific* rule making petitions leading to a more complete public disclosure and comment process than can attend the 220 petitions for reconsideration which were clearly intended to elicit additional comment on the *general* propositions adopted by the Commission in the Sixth Report and Order. Even MSTV/NAB, whose engineering study is cited by Entravision, and indeed represents the foundation of its petition, has suggested an industry coordinating process to address changes in the DTV allotments as may be needed and warranted in future cases, rather than a wholesale revision of the assignments set forth in the Sixth Report and Order based on 220 detailed and inevitably overlapping petitions for reconsideration.

5. It is respectfully requested, therefore, that the Entravision Petition for Reconsideration be denied or dismissed in its entirety, or, at least insofar as it requests a change in the DTV allotment for KUSI.

Respectfully submitted

CHANNEL 51 OF SAN DIEGO. INC.

By: 
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By: 
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July 18, 1997

Its Attorneys

Bernard R. Segal, P.E.
Consulting Engineer
Washington, DC

**ENGINEERING STATEMENT
PREPARED ON BEHALF OF
CHANNEL 51 OF SAN DIEGO, INC.**

The instant engineering statement has been prepared on behalf of Channel 51 of San Diego, Inc. (Channel 51), licensee of station KUSI-TV, San Diego, California. Station KUSI-TV operates on channel 51 with peak visual effective radiated power of 2880 kilowatts (MAX-DA) and antenna radiation center height above average terrain of 579 meters.

The FCC has allotted DTV channel 18 for KUSI-TV use. The effective radiated power allotted is 50 kW (MAX-DA). The instant Engineering Statement is in support of a reply to the Petition for Reconsideration by Entravision Holdings, LLC (Entravision) in MM Docket Number 87-268 in the matter of Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service.

Entravision complains that the FCC's allotment of channels 18 and 19 for DTV use by San Diego stations KUSI-TV and KSWB-TV, respectively, will require displacement of Entravision's secondary low-power television station

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Channel 51 of San Diego, Inc.

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K19BN, San Diego. Entravision states that any one of channels 43, 47, 53, 62, 63, 64, or 65 could be employed in lieu of channels 18 and 19 and so avoid the need for displacement of station K19BN.¹

The Engineering Statement which accompanied the Entravision Petition suggests a replacement channel only for DTV channel 19 with no mention of a replacement for DTV channel 18, and identifies the mentioned alternate channels which were contained in the table entitled "Alternative DTV Channels for the Continental United States" that was produced by the Association for Maximum Service Television, Inc. and the National Association of Broadcasters. The table is believed to represent only a listing of channels that meet the FCC's cochannel and first adjacent channel threshold minimum distances for consideration, and that in developing the table, no actual studies were conducted to determine if any of the alternate channel suggestions were preferable to the allotment channel under FCC criteria.

A quick review of the suggested channels reveals the following prospective allotment impediments:

¹ No supporting engineering studies were provided to demonstrate the suitability of any of the mentioned alternate channels.

Bernard R. Segal, P.E.
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| <u>Suggested Channel</u> | <u>Comment</u> |
|--------------------------|---|
| 43 | DTV allotment at Los Angeles (Mt. Wilson site). Also N+4 taboo re: NTSC ch. 39, San Diego and N-8 taboo re: NTSC Channel 51, San Diego. |
| 47 | DTV allotment at Ontario (Mt. Wilson site). Also, N+8 taboo re: NTSC ch. 39, San Diego, and N-4 taboo re: NTSC Channel 51, San Diego |
| 53 | DTV allotment at Santa Ana (Mt. Wilson site). Also, N+14 taboo re: NTSC ch. 39, San Diego, and N+2 taboo re: NTSC Channel 51, San Diego |
| 62 | NTSC station KCRA, Riverside (Mt. Wilson site). Also, exceeds guideline for limiting allotments of channels to below channel 60 wherever possible. |
| 63 | Exceeds the guideline for limiting allotments of channels to below channel 60 wherever possible. |
| 64 | Exceeds the guideline for limiting allotments of channels to below channel 60 wherever possible. |
| 65 | Exceeds the guideline for limiting allotments of channels to below channel 60 wherever possible. Also, N+14 taboo with respect to NTSC channel 51, San Diego. |

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Washington, DC

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The foregoing highlights only some of the allocation considerations that would require review to determine if the channel would produce an overall better result than the allotted channel. The above partial listing of stations and allotments requiring consideration, when compared with the concerns for the FCC's channel 18 allotment for KUSI-TV, suggests that there is little likelihood that any of the mentioned channels would prove to be better suited under FCC assignment principles than channel 18.²

Absent a demonstration of beneficial improvement to KUSI-TV DTV operation on any of the suggested alternate channels and a net overall improvement with respect to interference to other stations, Channel 51 opposes the Entravision Petition.



Bernard R. Segal, P.E.

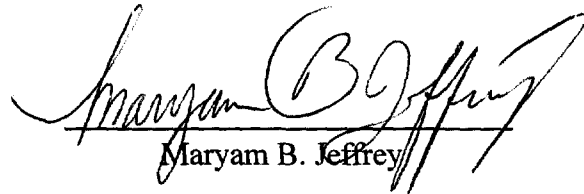
July 17, 1997

² In its own Petition for Reconsideration of the *Sixth Report and Order*, Channel 51 supports the allotment of channel 17 in lieu of channel 18 for KUSI-TV use provided successful negotiations with Mexico can be achieved for the deletion of NTSC channel 17 at Ensenada, Baja California, in "The Agreement Between Mexico and the United States Concerning UHF Television Channel Assignments".

CERTIFICATE OF SERVICE

I, Maryam B. Jeffrey, do hereby certify that a true and correct copies of the foregoing OPPOSITION TO PETITION FOR RECONSIDERATION OF SIXTH REPORT AND ORDER were mailed, first-class postage prepaid, this 18th day of July 1997 to the following:

Barry A. Friedman
Thompson Hine & Flory LLP
Suite 800
1920 N Street, N.W.
Washington, D.C. 20554


Maryam B. Jeffrey